



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOO/170845

PRELIMINARY RECITALS

Pursuant to a petition filed December 16, 2015, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Sheboygan County Department of Human Services in regard to FoodShare benefits (FS), a hearing was held on January 21, 2016, at Sheboygan, Wisconsin.

The issue for determination is whether the Sheboygan County Department of Human Services (the agency) correctly determined the Petitioner's FoodShare allotment, effective December 1, 2015.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: [REDACTED] Economic Support Supervisor
Sheboygan County Department of Human Services
3620 Wilgus Ave.
Sheboygan, WI 53081

ADMINISTRATIVE LAW JUDGE:

Mayumi M. Ishii
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Sheboygan County.
2. The Petitioner completed a renewal on October 30, 2015. At that time, the agency discovered that it had been incorrectly calculating the Petitioner's FoodShare allotment, because it used the

incorrect amount for gross income, and incorrectly doubled the amount the Petitioner paid in child support. (Testimony of Ms. [REDACTED])

3. On November 2, 2015, the agency sent the Petitioner a notice, advising him that effective December 1, 2015, that his FoodShare benefits would be reduced from \$194.00 per month to \$51.00 per month. (Exhibit 3)
4. The Petitioner filed a request for fair hearing that was received by the Division of Hearings and Appeals on December 16, 2015. (Exhibit 1)
5. Petitioner's sole source of income is from [REDACTED]. His gross monthly payment is \$1,333.00 per month and he has \$323.00 deducted for child support. (Exhibits 3 and 5)
6. Petitioner is a household of one person. He pays rent in the amount of \$350.00 per month and he pays for heating his residence. The Petitioner did not report any excess, out-of-pocket medical expenses. (Testimony of Ms. [REDACTED]; Exhibit 3)

DISCUSSION

In order to receive FoodShare benefits, individuals must pass both gross and net income limits.

Eligibility and benefit calculations are based on prospectively budgeted monthly income using estimated amounts. *FSH §4.1.1* "Only include income actually **available to the group**." *Id.*, *Emphasis added*.

To be categorically eligible, most FoodShare groups must have gross income at or below 200% of the Federal Poverty Level (FPL). *FoodShare Wisconsin Handbook (FSH) §4.2.1.1; 7 CFR 273.2(j)(2)*.

200% of FPL for an assistance group of \$1962 per month. *FSH §8.1.1.1* Thus, Petitioner is categorically eligible for FoodShare benefits, because his gross income of \$1,333 per month is below 200% of FPL.

Once a household passes the gross income test, the following deductions are applied in determining the household's net income:

- (1) a standard deduction –

This is \$155 per month for a household of 1-3 people, *7 CFR § 273.9(d)(1)*:
 \$168 for four people
 \$197 for five people
 \$226 for six or more people

- (2) an earned income deduction - which equals 20% of the household's total earned income, *7 CFR § 273.9(d)(2)*;

This does not apply to the Petitioner, because he has no earned income

- (3) certain medical expenses – for medical expenses exceeding \$35 in a month for an elderly or disabled person, *7 CFR § 273.9(d)(3)*;

Petitioner did not report any of these expenses

- (4) dependent care deduction for child care expenses, *7 CFR § 273.9(d)(4)*; and

Petitioner pays child support, in the amount of \$323.00 per month.

- (5) shelter and utility expenses deduction the deduction is equal to the excess expense above 50% of net income remaining after other deductions. 7 CFR § 273.9(d)(5).

The standard utility allowances are as follows:

HSUA – Heating Standard Utility Allowance	\$458
LUA – Limited Utility Allowance	\$293
EUA – Electric Utility Allowance	\$119
WUA-Water and Sewer Utility Allowance	\$78
FUA- Cooking Fuel Allowance	\$46
PUA- Phone Utility Allowance	\$30
TUA – Garbage and Trash Utility Allowance	\$20

There is a cap of \$504.00 on the shelter cost deduction, *unless* a household has an elderly, blind or disabled member.

FSH, §§ 4.6.7.1 and 8.1.3.

Applying the applicable deductions to Petitioner's income we have the following net income calculation, effective December 1, 2015:

Gross Income	\$1333.00		
No Earned Income Deduction			
Standard Deduction	-\$155.00	Rent	\$350.00
No Medical Expenses exceeding \$35		HSU	+\$458.00
Dependent Care Expenses	-\$323.00	-50% net income	-\$427.50
		<u>before shelter deduction</u>	
Net Income before shelter deduction	\$855.00	Excess Shelter Expense: \$380.50	
Excess Shelter Expense	- \$380.50		
Net Income	\$474.50		

Households of one, with a net income of \$474.50 are eligible for \$51.00 per month in FoodShare benefits. *FSH §8.1.2*

NOTE: Per FSH §7.3.6.2, if an overpayment occurs due to either client or non-client error, the individual's FoodShare benefits will be reduced by the greater of 10% of the group's allotment or \$10 each month. Because Petitioner has been subject to a FoodShare overpayment recovery, the agency has withheld \$10.00 per month to Petitioner can pay back the overpayment. So, the amount actually disbursed to the Petitioner is \$41.00 per month.

CONCLUSIONS OF LAW

The agency correctly calculated the Petitioner's FoodShare allotment effective December 1, 2015.

THEREFORE, it is

ORDERED

That the petition is dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Milwaukee,
Wisconsin, this 26th day of January, 2016

\sMayumi M. Ishii
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on January 26, 2016.

Sheboygan County Department of Human Services
Division of Health Care Access and Accountability